IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

Crl.Rev.Pet.No. 3987 of 2007()

CRA.79/1994 of II ADDL. SESSIONS COURT, TRIVANDRUM
ST.3677/1993 of JUDL. MAGISTRATE OF FIRST CLASS COURT-III, TRIVANDRUM

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REVN. PETITIONER: REVISION PETITIONER:

BOSE, S/O.SUDHAKARAN,
S.V.NIVAS, AMBALAMMUKKU, PEROORKADA,
THIRUVANANTHAPURAM.

BY ADV. SRI.G.SUDHEER

RESPONDENTS: RESPONDENT:

STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.M.NAZAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 13/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 3987 OF 2007

Dated this the 13th day of November, 2007

O R D E R

The revision petitioner, who was the accused in S.T.No.3677/93 on the file of JFCM-III, Thiruvananthapuram for an offence punishable under section 51(a) of the Kerala Police Act, 1961, was sentenced to undergo simple imprisonment for 15 days and to pay a fine of Rs.200/- and on default to pay the fine, to suffer simple imprisonment for 7 days. His appeal before the Sessions Court, Thiruvananthapuram as Crl.Appeal No.79/94 was also not successful. Hence this revision.

2. The proved facts are to the following effect:-

On 27.10.93 at about 7.10 p.m. the accused who was drunk and under the influence of alcohol, was found incapable of taking care of himself at Statue junction, Thiruvananthapuram and was found behaving in a disorderly manner by hurling obscene abuses to the annoyance of the public and was also found obstructing the traffic system. He was removed by the S.I. of Flying Squad and produced before the S.I. Cantonment Police Station along with a report. S.I. of Cantonment Police Station forwarded the revision petitioner to the General Hospital, Thiruvananthapuram with a requisition to subject him to a drunkenness

test and issue a certificate to that effect. Accordingly, Ext.P1 certificate was issued by PW3 Dr.Abdul Bary to the effect that the petitioner was under the influence of alcohol.

3. It was after considering the evidence of PWs 1 to 3 and Ext.P1 drunkenness certificate that the court below recorded the conviction against the revision petitioner. The sentence imposed on him was the minimum mandatory sentence. However, the revision petitioner was a first offender and he has subsequently got married and is stated to be leading a peaceful and law abiding life. Under these circumstances, I am inclined to treat this case as a special case justifying leniency particularly since PW1 was unable to mention the obscene words allegedly spoken by the revision petitioner. Hence, the sentence imposed on the revision petitioner is altered as follows:-

For his conviction under section 51(a) of the Kerala Police Act the revision petitioner shall undergo imprisonment till the rising of the court and shall also pay a fine of Rs.200/-(Rupees two hundred only) and on default to pay the fine, he shall suffer simple imprisonment for seven days.

This revision is disposed of as above.

(V. RAMKUMAR, JUDGE)

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